IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

Crl.MC.No. 4103 of 2006()

CC.770/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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PETITIONER/ACCUSED NO.1:

C.L.CLEETUS AGED 43 YEARS
S/O.LONAPPAN,
CHUNGATH PARAKKATTU HOUSE
KAVEEDU.

BY ADV. SRI.SUNNY XAVIER

RESPONDENTS/COMPLAINANT:

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1. K.K.ANILAN
FOOD INSPECTOR,
CHAVAKKAD MUNICIPALITY

2. STATE OF KERALA
REP.BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKEN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.4103 OF 2006

Dated this the 21st day of December, 2006.

ORDER

To my mind, this is an ideally fit case where the Court should refuse to invoke the jurisdiction under Section 482 Cr.P.C even assuming that the petitioner has a good case to be urged in defence in the trial to be held before the learned Magistrate.

2. The petitioner is being prosecuted for an offence under the Prevention of Food Adulteration Act, he having allegedly sold Pan Parag (Gutkha). The case was registered as early as in 2002 and there is no explanation as to why the petitioner has not chosen to invoke the jurisdiction under Section 482 Cr.P.C all along. I am perfectly satisfied that this is a last minute attempt to avoid the obligation to get ready for trial. I am not in these circumstances satisfied that the extraordinary jurisdiction available to this Court under Section 482 Cr.P.C can or ought to be invoked in the facts and circumstances of the case.

3. This Crl.M.C is, in these circumstances, dismissed. However, I make it clear that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

rtr/